

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

IN RE: FTX CRYPTOCURRENCY  
EXCHANGE COLLAPSE LITIGATION

Case No. 1:23-md-03076-KMM

MDL No. 3076

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This Document Relates To:

*Garrison v. Bankman-Fried*,  
No. 22-cv-23753-KMM

*Garrison v. Ohtani*,  
No. 23-cv-23064-KMM

*Garrison v. Golden State Warriors, LLC*,  
No. 1:23-cv-23084-KMM

*Norris v. Brady*,  
No. 23-cv-20439-KMM

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**SPORTS AND ENTERTAINER DEFENDANTS’ RESPONSE TO PLAINTIFFS’  
NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs’ submission of *SEC v. Genesis Global Capital, LLC*, No. 1:23-cv-00287-ER (S.D.N.Y. Mar. 13, 2024) (“*Gemini*”) (ECF 535-1), as supplemental authority is puzzling. That opinion is about whether the SEC adequately alleged a crypto product is a security. Here, the S&E Defendants did not challenge whether Plaintiffs adequately alleged FTX’s products are securities, so *Gemini* is inapposite.

If anything, *Gemini* confirms that Plaintiffs do not state claims against the S&E Defendants. The *Gemini* defendants were the entities who created, managed, and profited from the Gemini Earn program, which the *Gemini* court held was plausibly alleged to be a security.

*Gemini* at 1, 3-4, 14-15, 28. At most, were the Court to follow its reasoning, the *Gemini* decision would suggest that only FTX—not external persons—could potentially be liable for sales of allegedly similar products, such as YBAs. Yet FTX is one of the only entities that Plaintiffs chose *not* to sue. *Gemini* does not support any theory of liability against the S&E Defendants—none of whom (unlike the *Gemini* defendants) ever mentioned YBAs or FTT. ECF 271 at 12, 19. And of course, *Gemini* does not suggest that the Gemini platform is itself a security. ECF 372 at 5-6.

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 21, 2024, a true and correct copy of the foregoing was filed electronically with the Clerk of the Court, by using the CM/ECF system, causing a true and correct copy to be served on all counsel of record.

By: /s/ Roberto Martínez  
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